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HOUSE BILL 1225

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Pike, Fitzgibbon, Manweller, Blake, Wylie, and Peterson

1 AN ACT Relating to planning for the availability of mineral  
2 resources for future generations under the growth management act; and  
3 amending RCW 36.70A.020, 36.70A.060, and 36.70A.131.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.70A.020 and 2002 c 154 s 1 are each amended to  
6 read as follows:

7 The following goals are adopted to guide the development and  
8 adoption of comprehensive plans and development regulations of those  
9 counties and cities that are required or choose to plan under RCW  
10 36.70A.040. The following goals are not listed in order of priority  
11 and shall be used exclusively for the purpose of guiding the  
12 development of comprehensive plans and development regulations:

13 (1) Urban growth. Encourage development in urban areas where  
14 adequate public facilities and services exist or can be provided in  
15 an efficient manner.

16 (2) Reduce sprawl. Reduce the inappropriate conversion of  
17 undeveloped land into sprawling, low-density development.

18 (3) Transportation. Encourage efficient multimodal transportation  
19 systems that are based on regional priorities and coordinated with  
20 county and city comprehensive plans.

1 (4) Housing. Encourage the availability of affordable housing to  
2 all economic segments of the population of this state, promote a  
3 variety of residential densities and housing types, and encourage  
4 preservation of existing housing stock.

5 (5) Economic development. Encourage economic development  
6 throughout the state that is consistent with adopted comprehensive  
7 plans, promote economic opportunity for all citizens of this state,  
8 especially for unemployed and for disadvantaged persons, promote the  
9 retention and expansion of existing businesses and recruitment of new  
10 businesses, recognize regional differences impacting economic  
11 development opportunities, and encourage growth in areas experiencing  
12 insufficient economic growth, all within the capacities of the  
13 state's natural resources, public services, and public facilities.

14 (6) Property rights. Private property shall not be taken for  
15 public use without just compensation having been made. The property  
16 rights of landowners shall be protected from arbitrary and  
17 discriminatory actions.

18 (7) Permits. Applications for both state and local government  
19 permits should be processed in a timely and fair manner to ensure  
20 predictability.

21 (8) Natural resource industries. Maintain and enhance natural  
22 resource-based industries, including productive timber, agricultural,  
23 ~~((and))~~ fisheries, and mineral resource industries. Encourage the  
24 conservation of productive forestlands ~~((and—productive))~~,  
25 agricultural lands, and mineral resource lands, and discourage  
26 incompatible uses.

27 (9) Open space and recreation. Retain open space, enhance  
28 recreational opportunities, conserve fish and wildlife habitat,  
29 increase access to natural resource lands and water, and develop  
30 parks and recreation facilities.

31 (10) Environment. Protect the environment and enhance the state's  
32 high quality of life, including air and water quality, and the  
33 availability of water.

34 (11) Citizen participation and coordination. Encourage the  
35 involvement of citizens in the planning process and ensure  
36 coordination between communities and jurisdictions to reconcile  
37 conflicts.

38 (12) Public facilities and services. Ensure that those public  
39 facilities and services necessary to support development shall be  
40 adequate to serve the development at the time the development is

1 available for occupancy and use without decreasing current service  
2 levels below locally established minimum standards.

3 (13) Historic preservation. Identify and encourage the  
4 preservation of lands, sites, and structures, that have historical or  
5 archaeological significance.

6 **Sec. 2.** RCW 36.70A.060 and 2014 c 147 s 2 are each amended to  
7 read as follows:

8 (1)(a) Each county that is required or chooses to plan under RCW  
9 36.70A.040, and each city within such county, shall adopt development  
10 regulations on or before September 1, 1991, to assure the  
11 conservation of agricultural, forest, and mineral resource lands  
12 designated under RCW 36.70A.170. Regulations adopted under this  
13 subsection may not prohibit uses legally existing on any parcel prior  
14 to their adoption and shall remain in effect until the county or city  
15 adopts development regulations pursuant to RCW 36.70A.040. Such  
16 regulations shall assure that the use of lands adjacent to  
17 agricultural, forest, or mineral resource lands shall not interfere  
18 with the continued use, in the accustomed manner and in accordance  
19 with best management practices, of these designated lands for the  
20 production of food, agricultural products, or timber, or for the  
21 extraction of minerals.

22 (b) Counties and cities shall require that all plats, short  
23 plats, development permits, and building permits issued for  
24 development activities on, or within five hundred feet of, lands  
25 designated as agricultural lands, forestlands, or mineral resource  
26 lands, contain a notice that the subject property is within or near  
27 designated agricultural lands, forestlands, or mineral resource lands  
28 on which a variety of commercial activities may occur that are not  
29 compatible with residential development for certain periods of  
30 limited duration. The notice for mineral resource lands shall also  
31 inform that an application might be made for (~~mining-related~~  
32 ~~activities, including mining, extraction, washing, crushing,~~  
33 ~~stockpiling,)) blasting(~~(, transporting, and recycling)~~) of minerals.~~

34 (c) Each county that adopts a resolution of partial planning  
35 under RCW 36.70A.040(2)(b), and each city within such county, shall  
36 adopt development regulations within one year after the adoption of  
37 the resolution of partial planning to assure the conservation of  
38 agricultural, forest, and mineral resource lands designated under RCW  
39 36.70A.170. Regulations adopted under this subsection (1)(c) must

1 comply with the requirements governing regulations adopted under (a)  
2 of this subsection.

3 (d)(i) A county that adopts a resolution of partial planning  
4 under RCW 36.70A.040(2)(b) and that is not in compliance with the  
5 planning requirements of this section, RCW 36.70A.040(4),  
6 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution  
7 is adopted must, by January 30, 2017, apply for a determination of  
8 compliance from the department finding that the county's development  
9 regulations, including development regulations adopted to protect  
10 critical areas, and comprehensive plans are in compliance with the  
11 requirements of this section, RCW 36.70A.040(4), 36.70A.070(5),  
12 36.70A.170, and 36.70A.172. The department must approve or deny the  
13 application for a determination of compliance within one hundred  
14 twenty days of its receipt or by June 30, 2017, whichever date is  
15 earlier.

16 (ii) If the department denies an application under (d)(i) of this  
17 subsection, the county and each city within is obligated to comply  
18 with all requirements of this chapter and the resolution for partial  
19 planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

20 (iii) A petition for review of a determination of compliance  
21 under (d)(i) of this subsection may only be appealed to the growth  
22 management hearings board within sixty days of the issuance of the  
23 decision by the department.

24 (iv) In the event of a filing of a petition in accordance with  
25 (d)(iii) of this subsection, the county and the department must  
26 equally share the costs incurred by the department for defending an  
27 approval of determination of compliance that is before the growth  
28 management hearings board.

29 (v) The department may implement this subsection (~~((1))~~) (1)(d)  
30 by adopting rules related to determinations of compliance. The rules  
31 may address, but are not limited to: The requirements for  
32 applications for a determination of compliance; charging of costs  
33 under (d)(iv) of this subsection; procedures for processing  
34 applications; criteria for the evaluation of applications; issuance  
35 and notice of department decisions; and applicable timelines.

36 (2) Each county and city shall adopt development regulations that  
37 protect critical areas that are required to be designated under RCW  
38 36.70A.170. For counties and cities that are required or choose to  
39 plan under RCW 36.70A.040, such development regulations shall be  
40 adopted on or before September 1, 1991. For the remainder of the

1 counties and cities, such development regulations shall be adopted on  
2 or before March 1, 1992.

3 (3) Such counties and cities shall review these designations and  
4 development regulations when adopting their comprehensive plans under  
5 RCW 36.70A.040 and implementing development regulations under RCW  
6 36.70A.120 and may alter such designations and development  
7 regulations to insure consistency.

8 (4) Forestland and agricultural land located within urban growth  
9 areas shall not be designated by a county or city as forestland or  
10 agricultural land of long-term commercial significance under RCW  
11 36.70A.170 unless the city or county has enacted a program  
12 authorizing transfer or purchase of development rights.

13 **Sec. 3.** RCW 36.70A.131 and 1998 c 286 s 7 are each amended to  
14 read as follows:

15 (1) As part of the review required by RCW 36.70A.130(1), a county  
16 or city shall review its mineral resource lands designations adopted  
17 pursuant to RCW 36.70A.170 and mineral resource lands development  
18 regulations adopted pursuant to RCW 36.70A.040 and 36.70A.060. In its  
19 review, the county or city shall take into consideration:

20 ~~((+1))~~ (a) New information made available since the adoption or  
21 last review of its designations or development regulations, including  
22 data available from the department of natural resources relating to  
23 mineral resource deposits; and

24 ~~((+2))~~ (b) New or modified model development regulations for  
25 mineral resource lands prepared by the department of natural  
26 resources, the department of ~~((community, trade, and economic  
27 development))~~ commerce, or the Washington state association of  
28 counties.

29 (2) Whether shown by new information as described in subsection  
30 (1)(a) and (b) of this section, or shown by prior information  
31 submitted to the county or city, a county or city shall designate as  
32 mineral resource lands all property that has long-term significance  
33 for the extraction of minerals. This requirement to designate mineral  
34 resource lands of long-term significance cannot be restricted or  
35 deferred by pace of growth, market analysis such as a twenty-year  
36 threshold of supply, or any other mechanism. Any lands that have  
37 long-term significance for the extraction of minerals must be  
38 provided the protection of a mineral resource lands designation. The  
39 requirement to designate all such property as mineral resource lands

1 is to ensure that lands are designated and afforded protection from  
2 incompatible uses so as to maintain viability for future extraction.  
3 Designation of mineral resource lands under this chapter is separate  
4 from site-specific permitting. A designation of mineral resource  
5 lands does not preclude the county and city from requiring owners of  
6 property to obtain site-specific permits prior to development and  
7 mining mineral resource lands.

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